

**2003**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**REVENUE LEGISLATION AMENDMENT BILL 2003 (NO 2)**

**EXPLANATORY STATEMENT**

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## **Revenue Legislation Amendment Bill 2003 (No 2)**

### **Summary**

The *Revenue Legislation Amendment Bill 2003 (No 2)* (the Bill) is an omnibus Bill that amends the *Duties Act 1999* (the Duties Act) and the *Gaming Machine Act 1987* (the Gaming Act). The Bill provides the legislative basis for Revenue Initiatives announced in Budget 2003-04.

In brief, the Bill:

- ◆ removes the current exemption allowed under the Duties Act for corporate reconstruction transactions and replaces it with a concession whereby 5% of the duty assessed is payable. The eligible parties and the types of transactions are unchanged; and
- ◆ increases the top marginal gaming machine tax rate by 2% from 25.0% to 27.0%. This limits the effect of the measure to those clubs with the most capacity to pay, i.e. those clubs with gross gaming machine revenue in excess of \$600,000 per annum.

The proposed commencement date for the amending Act is 1 July 2003.

### **Revenue Implications**

This Bill will have direct revenue implications estimated to raise \$4.1m additional revenue in 2003-04 as follows:

- ◆ concessional duty for corporate reconstruction transactions: \$1.1m; and
- ◆ increasing gaming machine tax rate: \$3m.

Details of the Bill are attached.



## **Details of the Revenue Legislation Amendment Bill 2003 (No 2)**

### **Part 1 Preliminary**

#### **Clause 1 Name of Act**

This Act is the *Revenue Legislation Amendment Act 2003 (No 2)*.

#### **Clause 2 Commencement**

This Act commences on 1 July 2003.

### **Part 2 Duties Act 1999**

#### **Clause 3 Act amended - pt 2**

This Act amends the *Duties Act 1999*.

#### **Clause 4 New section 70A is inserted.**

##### **70A Corporate reconstructions - concessional duty for dutiable transactions**

The provisions of this clause apply to a dutiable transaction if property is transferred (or agreed to be transferred) by a member of a group of corporations to another member of the same group, or is vested in a member of the group (and it was owned by a member of the same group immediately before the vesting). For this section, a corporation includes a unit trust scheme.

The duty payable for the transaction is 5% of the amount that would be payable apart from this provision. Minimum duty of \$20 applies under section 229 of the Duties Act.

The 5% duty only applies if the transaction is approved by the commissioner in accordance with written guidelines determined by the Minister. The guidelines are a disallowable instrument and the approval may be subject to conditions.

These provisions effectively convert the corporate reconstruction exemption omitted in clause 9 of this bill to a concession, but the eligibility criteria are unchanged.

#### **Clause 5 New section 91A is inserted.**

##### **91A Corporate reconstructions - concessional duty for relevant acquisitions**

This clause repeats the provisions in section 70A to allow concessional duty of 5% to apply to the making of a relevant acquisition (section 86).

These provisions effectively convert the corporate reconstruction exemption omitted in clause 9 of this bill to a concession, but the eligibility criteria are unchanged.

**Clause 6      Rate of duty - Section 208 (1)**

The rate of duty is payable at the determined rate subject to subsection (2) and section 208AA. This allows concessional duty of 5% of the duty otherwise payable if the provisions of s208AA are met.

**Clause 7      New section 208AA** is inserted in Part 9.1

**208AA Corporate reconstructions - concessional duty for motor vehicle registration applications**

The provisions of this clause apply to the application to register a motor vehicle if the application is made by a member of a group of corporations and immediately before the application, the vehicle was registered in the name of another member of the same group. A corporation includes a unit trust scheme.

The duty payable for the transaction is 5% of the amount that would be payable apart from this provision. Minimum duty of \$20 applies under section 229 of the Duties Act.

The 5% duty only applies if the transaction is approved by the commissioner in accordance with written guidelines determined by the Minister. The guidelines are a disallowable instrument and the approval may be subject to conditions.

These provisions effectively convert the corporate reconstruction exemption omitted in clause 9 of this bill to a concession, but the eligibility criteria are unchanged.

**Clause 8      Corporate reconstructions – exemptions – Section 232**

The omission of section 232 removes the exemption for corporate reconstruction.

**Clause 9      Objections and review of decisions**

**New section 252 (1) (ea) and (eb)**

The insertion of new sections 252 (1) (ea) and (eb) allow a taxpayer to object under the Taxation Administration Act to the commissioner's decision to impose a condition on the approval for concessional duty to be paid on a dutiable transaction (s70A) or a relevant acquisition (s91A), respectively.

**Clause 10      Insert New section 252 (1) (sa)**

The insertion of a new section 252 (1) (sa) allows a taxpayer to object under the Taxation Administration Act to the commissioner's decision to impose a condition on the approval for concessional duty to be paid on the application to register a motor vehicle.

**Clause 11      Section 252 (1) (y)**

This clause makes s252 (1) (y) the final subsection in the provision.

**Clause 12      Section 252 (1) (z)**

This subsection is omitted. Objection rights are no longer necessary as the section to which it refers has been omitted.

**Clause 13      Section 252 (1)**

This section renumbers paragraphs when the Act next is republished under the *Legislation Act 2001*.

**Part 3            Gaming Machine Act 1987**

**Clause 14      Act amended - pt 3**

This part amends the *Gaming Machine Act 1987*.

**Clause 15      Definitions for Act**

**Section 4, definition of *prescribed percentage*, paragraph (b) (iv)**

This clause amends paragraph (b)(iv) of the definition of prescribed percentage by substituting a new prescribed percentage in relation to that part of gross gaming machine revenue that exceeds \$50,000 per month of 27%.